

REMARKS

Pending claims

Claim 1 has been amended to more clearly point out and distinctly claim the invention. No new matter has been introduced. Support for the phrases "from about 15 minutes to about 45" and "the ratio of the second glucose concentration over the first glucose concentration is about 1.5 or larger, indicating that the patient is likely to be a diabetic" can be found on page 19, the first full paragraph, Example 1 and Drawing. Six (6) Claims (claims 1–6) are pending.

Rejections Under 35 USC 112

Claims 1-6 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. For the following reason, the Examiner's rejection is respectfully traversed.

Applicants submit that the invention is clearly described and taught in the specification, for example, in the paragraph bridging page 18 and page 19, on page 19, the first full paragraph, Example 1 and Drawing. Applicants have demonstrated the workability of the invention in Example 1 and Drawing 1, in particular, showing the determined glucose concentration in a tear at 15, 30, 45, and 60 minutes after orally administering a 54 g carbohydrate load to 9 diabetics. This finding was unexpected in view of Brzheskii. Applicants would like to point out that the cited reference was published almost three years after the priority date of this application and did not provide *any evidence to contradict* with the present invention. Applicants submit that the specification provide enough teaching to enable the invention as currently claimed. Applicants respectfully request withdrawal of this rejection in view of the foregoing reasons and the amendment of claim 1.

Rejections Under 35 USC 103

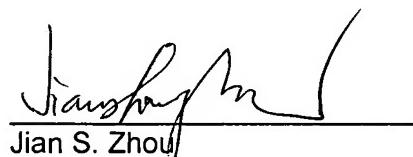
Claims 1-6 were rejected under 35 USC 103(a) as being unpatentable over March (US 6,681,127) in view of Brzheskii et al (Derwent SU 1534406). For the following reasons, the Examiner's rejection is respectfully traversed.

The primary reference (March) does not disclose nor suggest anything about determining by means of the glucose-sensing ophthalmic device a second glucose concentration in the ocular fluid at a period of time of from about 15 minutes to about 45 minutes after orally administering of the load of carbohydrate; anything about comparing the second glucose concentration with the first glucose concentration to determine if the ratio of the second glucose concentration over the first glucose concentration is about 1.5 or larger, indicating that

the patient is likely to be a diabetic. As discussed above and pointed out by the Examiner, the secondary reference (Brzheskii et al.) does not appreciate, teaches, nor suggest that the test can be done at a period of time of from about 15 minutes to about 45 minutes after orally administering of the load of carbohydrate. The secondary reference teaches away from the present invention and cannot fill the gap left by the primary reference. As such, the primary reference, alone or in combination with the secondary reference, does not discloses nor suggest all of the limitations of the invention as currently claimed. Thus, a *prima facie* case of obviousness has not been established. Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



Jian S. Zhou
Reg. No. 41,422
(678) 415-4691

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CIBA Vision
Patent Department
11460 Johns Creek Parkway
Duluth, GA 30097